

## **MEDIATION INFORMATION**

## **MEDIATION INFORMATION SHEET**

### **What is the Mediation Program?**

The Mediation Program was created to actively support resolution of differences. Using mediation demonstrates a commitment to a positive approach and joint ownership of concerns and solutions. Mediation is an alternative for resolving problems and disputes before the parties get involved in a more formal process.

### **What is Mediation?**

Mediation is an informal way complainants can resolve disputes. In mediation, a neutral person called a Mediator helps two or more persons explore ways to resolve their differences and reach an agreement that best addresses their interests. All parties must be willing to work out the problem among themselves. Mediation, unlike arbitration or court proceedings, does not focus on who is right or who is wrong. The Mediator has no power to make the decision for the parties or tell the parties what they should do. It is the parties themselves who decide what is important to each of them and make their own decisions based on those factors. A Mediator helps the parties become the decision-makers by understanding and listening to each other and by working together to create options and solutions which meet their concerns.

### **Why should I use the Mediation Program?**

Mediation is faster, less formal, and much less expensive in both time and resources for all parties involved. Neither party gives up any rights when using the program. Mediation is simply another way to resolve disputes and has been used successfully by other agencies.

Mediation is a type of problem-solving process that helps individuals to:

- Communicate with each other.
- Create their own realistic and mutually satisfactory solutions instead of taking the problem to a judge, arbitrator, or outside decision-maker whose ruling may be unsatisfactory to both parties.

## **When can I use Mediation?**

The Mediation Program can be used to resolve a variety of differences, including grievances, discrimination complaints, supervisor/employee, classroom/enrollment issues, and other workplace differences.

## **How do I begin the Mediation process?**

The Mediation process is initiated when the complainant files a complaint with his/her LWIB EO Officer.

## **How does the Mediation Program work?**

**Requests for Mediation.** The State Workforce Investment and LWIB have made mediation an integral part of the complaint procedures by:

- Discussing mediation in orientation to new participants, new employees, and the general public.
- Making the complainant aware of the option when complaints are filed; and
- Disseminating information about mediation on posters and etc.

The choice to elect this option rests with the complainant.

**Assignment of Mediator or Co-Mediators.** The LWIB EO Officer shall contact the Office of the WIA EO Manager who should assign mediators on a rotating basis from the Office of the WIA EO Manager Mediator Roster. If either or both parties object to the Mediator or one/both of the Co-mediators assigned to a particular matter, the Office of the WIA EO Manager will immediately assign another Mediator. The Office of the WIA EO Manager will assign mediators within two (2) working days of a Mediation Request.

**Signing the Agreement to Mediate.** The parties and all persons participating in the mediation must sign an Agreement to Mediate prior to the mediation. The document will set forth the requirements for both parties entering into mediation in good faith to resolve their differences. The assigned mediator is responsible for ensuring that the agreement is signed before beginning the mediation session. All parties should sign the Agreement to Mediate within two (2) working days of the assignment of the Mediator.

**Procedures after the Agreement to Mediate.** The assigned mediators are responsible for scheduling the initial mediation session. The initial session will be scheduled as early as possible, but no later than two (2) working days after receipt of the assignment. Prior to the date scheduled for mediation, the Mediators should confirm the time, date, and place for the mediation with the

LWIB EO Officer and both parties. This Mediation Information Sheet will be used by the EO Officer for briefing the parties on the mediation process.

**Concluding the Mediation Process.** At the conclusion of the mediation process, a Settlement Agreement shall be prepared and signed within five (5) working days of the agreement, if an agreement is reached. If an agreement is not achieved, the mediator shall file a short memorandum to that effect with the LWIB EO Officer. All notes and documentation concerning the mediation in the possession of the Mediators shall be destroyed. The EO officer will provide the parties and the mediator with a Follow-up Evaluation Survey to be completed within five (5) working days following the conclusion of the mediation session.

**Evaluating the Mediation Process.** All evaluations will be sent to the State WIA EO Manager for compilation and analysis.

#### **Who is involved in the Mediation Process?**

**Complainant:** All registrants, applicants, eligible applicant/registrants, participants, applicants for employment and employees as defined in 29 CFR Part 37 who has a problem that he/she would like to bring to the mediation can participate in the program.

**Management Participant:** The LWIB EO Officer (or designee) who is authorized to discuss and execute Settlement Agreements on behalf of the WIA Board.

**Mediator:** A fair, neutral, and impartial third party, trained and skilled in conflict resolution techniques, who has been approved to participate in the Mediation Program.

**Representatives:** Each person may select a representative to attend the mediation. The representative may be a friend, co-worker, supervisor, relative, or attorney. (The presence of a representative is not mandatory.)

**Other Team Members:** Generally, only the Mediators, the aggrieved person, and the LWIB EO Officer (or designee) are present in the room where a mediation takes place. Behind the scenes, there may be a person/persons who needs to be consulted regarding regulatory requirements.

#### **Are Mediation sessions confidential?**

Yes. The Mediators will protect the confidentiality of the parties and the mediation process. The mediation sessions and all materials disclosed during the mediation are confidential. Both parties must agree to confidentiality. Mediators will not testify concerning the mediation discussions. During private

sessions, Mediators will not disclose to the other party anything that one of the parties has shared with them in confidence. Of course, if the case is not settled and goes to formal litigation, each party could use the court process to obtain documents that would normally be obtained through the litigation process or under the Freedom of Information Act. If there is an agreement, disclosure of such agreement will be on a need to know basis.

**Will an aggrieved party's rights to pursue court and external administrative action be affected if he or she decides to mediate the issue?**

No. If unresolved issues remain at the end of the mediation, the Mediators and the Aggrieved Person/Complainant will state these issues in writing during the final mediation session.

**How are mediators selected and trained?**

The LWIB nominate individuals to serve as mediators. The mediators are then confirmed by the WIA EO Manager. The nominees who successfully complete the mediation training will serve as mediators on a collateral-duty basis. Mediators **will not conduct mediation sessions** within their own area.

**Interrelationship (WIA EO Manager/LWIB EO Officer)**

The State EO Officer has the overall responsibility for coordinating the recipients nondiscrimination obligations and act as a single point of contact at both the Local level and Department of Labor level. The Local level EO Officer has similar responsibilities for the Local Level Workforce Investment Board.

**How can you obtain further information about the Mediation Program?**

For more information, contact the Arkansas Department of Workforce Services, Equal Opportunity Office, Post Office Box 2981, Little Rock, Arkansas 72203.